

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 749

Introduced by Beutler, 28

Read first time January 22, 2003

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Invest Nebraska Act; to amend sections
2 77-5501, 77-5503, and 77-5536, Revised Statutes
3 Supplement, 2002; to define terms; to require a living
4 wage for employees at the project; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5501, Revised Statutes Supplement,
2 2002, is amended to read:

3 77-5501. Sections 77-5501 to 77-5544 and sections 3 and
4 4 of this act shall be known and may be cited as the Invest
5 Nebraska Act.

6 Sec. 2. Section 77-5503, Revised Statutes Supplement,
7 2002, is amended to read:

8 77-5503. For purposes of the Invest Nebraska Act, the
9 definitions found in sections 77-5504 to 77-5530 and sections 3 and
10 4 of this act shall be used.

11 Sec. 3. Full-time employee means an employee who is
12 employed to work one-half or more of the regularly scheduled hours
13 during each pay period, but does not include temporary employees.

14 Sec. 4. Health care benefits means participation in an
15 employer-sponsored or supported health insurance program in which
16 the employer contributes at least fifty percent of the cost of the
17 premium for individual coverage.

18 Sec. 5. Section 77-5536, Revised Statutes Supplement,
19 2002, is amended to read:

20 77-5536. (1) The board shall determine whether to
21 approve the company's application by majority vote based on its
22 determination as to whether the project will sufficiently help
23 enable the state to accomplish the purposes of the Invest Nebraska
24 Act. The board shall be governed by and shall take into
25 consideration all of the following factors in making its
26 determination:

27 (a) The timing, number, wage levels, employee benefit
28 package, and types of new jobs to be created by the project;

1 (b) The type of industry in which the company and the
2 project would be engaged;

3 (c) The timing, amount, and types of investment in
4 qualified property to be made at the project; and

5 (d) Whether the board believes the project would occur in
6 this state regardless of whether the application was approved.

7 (2) The weight given to each factor shall be determined
8 by each board member individually for each application. The
9 decision of the board shall be made in open meeting and is not
10 confidential.

11 (3) A project shall be considered eligible under the act
12 and may be approved by the board only:

13 (a) If ~~if~~ the application defines a project consistent
14 with the purposes contained in section 77-5502 in one or more
15 qualified business activities within this state that will result in
16 ~~(a)~~ (i) the investment in qualified property of at least ten
17 million dollars and the hiring of a number of new employees of at
18 least twenty-five. The investment and new employees for such
19 project shall count towards attaining and maintaining such
20 thresholds only if the qualified property is located in, and the
21 employee's principal place of employment for the company is located
22 in, one or more Nebraska counties having a population of less than
23 one hundred thousand individuals as of the end of the base year.
24 For this purpose, the population shall be conclusively determined
25 by the Department of Revenue, ~~(b)~~ (ii) the investment in qualified
26 property of at least fifty million dollars and the hiring of a
27 number of new employees of at least five hundred, ~~(c)~~ (iii) the
28 investment in qualified property of at least one hundred million

1 dollars and the hiring of a number of new employees of at least two
2 hundred fifty, or ~~(d)~~ (iv) the investment in qualified property of
3 at least two hundred million dollars and the hiring of a number of
4 new employees of at least five hundred; and

5 (b) All full-time employees at the project are paid a
6 living wage of a minimum of eight dollars and seventy cents per
7 hour for employees who receive health care benefits and nine
8 dollars and fifty-seven cents per hour for employees who do not
9 receive health care benefits. The Department of Administrative
10 Services shall adjust the minimum wages required on July 1 of each
11 year beginning in 2005 for inflation based on the unadjusted
12 Consumer Price Index for all Urban Consumers published by the
13 Federal Bureau of Labor Statistics for the previous year.

14 (4) The new investment and employment shall occur within
15 seven years, meaning by the end of the sixth year after the end of
16 the year the application was filed, and shall be maintained for the
17 entire entitlement period. These thresholds shall constitute the
18 required levels of employment and investment for purposes of the
19 act.

20 (5) (a) An individual employed by the company, other than
21 a base-year employee, shall be considered an employee for purposes
22 of attaining and maintaining the required number of new employees
23 and shall be considered an employee whose compensation is included
24 in the calculation of the wage benefit credit only if the
25 compensation paid by the company to such employee for the year is
26 (i) for companies qualifying under the ten million dollar
27 investment and twenty-five new employee threshold under subdivision
28 (3) (a) of this section, at least one hundred percent of the

1 Nebraska average annual wage, (ii) for companies qualifying under
2 the fifty million dollar investment and five hundred new employee
3 threshold under subdivision (3)(b) of this section or the one
4 hundred million dollar investment and two hundred fifty new
5 employee threshold under subdivision (3)(c) of this section, at
6 least one hundred ten percent of the Nebraska average annual wage;
7 and (iii) for the companies applying under the two hundred million
8 dollar investment and five hundred new employee threshold of
9 subdivision (3)(d) of this section, at least one hundred twenty
10 percent of the Nebraska average annual wage.

11 (b) For the purposes of subdivision (a) of this
12 subsection, compensation paid by the company to such employee for
13 the year shall be the amount paid for the entire year for regular
14 hours worked, not including overtime, bonuses, or any other
15 irregular payments. If the employee works for less than a year,
16 the compensation paid will be annualized solely for the purpose of
17 comparison with the Nebraska average annual wage.

18 (6) If the project application is approved by the board,
19 the company and the state shall enter into a written agreement,
20 which shall be executed on behalf of the state by the Tax
21 Commissioner. In the agreement the company shall agree to complete
22 the project and the state shall designate the approved plans of the
23 company as a project and, in consideration of the company's
24 agreement, agree to allow the wage benefit credit or the investment
25 tax credit, as applicable, as provided for in the act. The
26 application, and all supporting documentation, to the extent
27 approved, shall be deemed a part of the agreement. The agreement
28 shall contain such terms and conditions as the board shall specify

1 in order to carry out the legislative purposes of the act. The
2 agreement shall contain provisions to allow the Department of
3 Revenue to verify that the required levels of employment and
4 investment have been attained and maintained. The agreement shall
5 contain provisions to require verification that the required levels
6 have been attained before any credits are used. The agreement
7 shall contain such other conditions or requirements, if any, for
8 the company as established by the department to carry out the
9 purposes of the act.

10 (7) Any investment or employment which is eligible for
11 benefits under the Quality Jobs Act shall not be included in a
12 project under the Invest Nebraska Act. A project under the Invest
13 Nebraska Act may involve the same location as another project under
14 the Invest Nebraska Act or under the Quality Jobs Act, except that
15 no new employment or new investment shall be included in more than
16 one project for either the meeting of the employment or investment
17 requirements or the creation of tax incentives. When projects
18 overlap and the project application does not otherwise clearly
19 specify, the company shall specify in which project the employment
20 and investment belongs. Any employment or investment which is
21 eligible for benefits under the Invest Nebraska Act may also be
22 included in, and create incentives for, a project under the
23 Employment and Investment Growth Act, the Employment Expansion and
24 Investment Incentive Act, and the Rural Economic Opportunities Act,
25 to the extent otherwise allowable under such respective acts.

26 (8) In order to provide the degree of certainty necessary
27 to enable a project to proceed, and notwithstanding any provision
28 of Nebraska statute or common law to the contrary, to the extent

1 any such right of appeal or challenge otherwise exists, no appeal
2 or challenge of the board's decision by any person shall be filed
3 after the expiration of thirty days after the board's decision.

4 Sec. 6. Original sections 77-5501, 77-5503, and 77-5536,
5 Revised Statutes Supplement, 2002, are repealed.